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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,604	02/23/2004	Brian Rose	P2492C-961	3218
21839	7590	09/28/2004	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			CASCHERA, ANTONIO A	
			ART UNIT	PAPER NUMBER
			2676	

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/785,604	ROSE, BRIAN
	Examiner Antonio A Caschera	Art Unit 2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 22-58 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 22-27 and 31-58 is/are rejected.  
 7) Claim(s) 28-30 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 2/23/04, 5/14/04.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The cancellation of claims 1-21 and addition of claims 22-58, made in preliminary amendment filed 2/23/2004, is noted.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 22-27 and 31-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe Systems Inc. (*Adobe Photoshop 6.0 User Guide for Windows and Macintosh*, 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and further in view of Beretta (U.S. Patent 5,254,978)

In reference to claims 22, 47 and 53, Adobe Systems Inc. discloses user selection and manipulation of colors utilizing color tables in a graphics program named, “Adobe Photoshop 6.0” which is a well-known software program in the art (see page 330, 2<sup>nd</sup> paragraph). Adobe discloses the ability to create a web-safe color table (see page 330, “Generating a color table” and 331, under “web”) which, as disclosed by the applicant, a web-safe color is the opposite of a non web-safe color which is one that does not provide a consistent appearance across different platforms (see page 2, lines 5-7 of applicant’s disclosure). Adobe also discloses selecting colors

from an image, selecting specific web-safe or non-web-safe colors (see page 334, under “To select all Web-safe colors” and “To select all non-Web-safe colors”). Adobe does not explicitly disclose selecting or grouping achromatic colors however Microsoft Corporation does.

Microsoft discloses a color palette selection tool from their program Microsoft Windows 2000, which organizes standard colors in a way which groups achromatic colors together (see screenshot (1) of Microsoft Word 2000 color palette). Neither Adobe nor Microsoft explicitly disclose grouping the above sets of colors together in one palette adjacent to achromatic colors. Beretta discloses a reference color selection system wherein individual colors are displayed in a predetermined order according to color space coordinates such as order of lightness and chroma values (see column 15, lines 17-24). Although Beretta does not explicitly disclose grouping the colors in a palette by specific web-safe, non web-safe and achromatic colors, so that the web-safe colors are adjacent to the non web-safe colors, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the grouping of specific web-safe, non web-safe and achromatic colors of Adobe and Microsoft with the arranging of color groups in a single color selection palette as disclosed by Beretta in order to allow users to better select suitable colors by displaying related colors adjacent one another applying the, “...well-known principles of color perception theory that human perception of color is influenced by the effect of adjacent colors,” (see column 1, lines 40-51 of Beretta), therefore providing an easier environment for finding web-safe colors within a palette.

In reference to claims 23, 26, 36, 39, 42, 45, 48, 51, 54 and 57, Adobe Systems Inc., Microsoft Corporation, and Beretta disclose all of the claim limitations as applied to claims 22,

35, 41, 47 and 53, in addition, Adobe discloses the ability to sort a color table by hue (see page 332, under “Sorting the color table”).

In reference to claims 24, 27, 37, 40, 43, 46, 49, 52, 55 and 58, Adobe Systems Inc., Microsoft Corporation, and Beretta disclose all of the claim limitations as applied to claims 22, 35, 41, 47 and 53. Although Adobe does disclose the ability to sort a color table by luminance (see page 332, under “Sorting the color table”), Adobe does not explicitly disclose the non web-safe blends created from non web-safe colors via incremental changes in saturation and value however Microsoft does. Microsoft discloses a custom color palette selection tool whereby custom colors maybe chosen by incrementing values of saturation and luminance or value (see screenshot’s (2) and (3) of Microsoft Word 2000 color palette). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color table groupings of web-safe and non webs-safe colors of Adobe and the creation of alternate colors created by adjusting saturation and luminance values of Microsoft with the arranging of color groups in a single color selection palette as disclosed by Beretta in order to allow users to better select suitable colors by displaying related colors adjacent one another applying the, “...well-known principles of color perception theory that human perception of color is influenced by the effect of adjacent colors,” (see column 1, lines 40-51 of Beretta).

In reference to claims 25, 38, 44, 50 and 56, Adobe Systems Inc., Microsoft Corporation, and Beretta disclose all of the claim limitations as applied to claims 22, 35, 41, 47 and 53, in addition, Adobe discloses the ability to sort a color table by luminance (see page 332, under “Sorting the color table”).

In reference to claim 31, Adobe Systems Inc., Microsoft Corporation, and Beretta disclose all of the claim limitations as applied to claim 22 above in addition, Beretta discloses a color palette where colors are displayed and arranged in rows and columns (see #82, 71, 88, 73, 85, 86, 74, 87 of Figure 4). Beretta does not explicitly disclose one grouping of colors comprising one row or column of a grid however Microsoft Corporation does. Microsoft discloses arranging achromatic colors in a row of hexagonal shaped color grid areas (see screenshot (1) of Microsoft Word 2000 color palette). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement groupings of web-safe and non webs-safe colors of Adobe and a color palette arranged by rows and columns disclosed by Beretta with the ordering of color groups in a row of the palette as Microsoft in order to allow users to better select suitable colors by displaying related colors adjacent one another applying the, "...well-known principles of color perception theory that human perception of color is influenced by the effect of adjacent colors," (see column 1, lines 40-51 of Beretta).

In reference to claim 32, Adobe Systems Inc., Microsoft Corporation, and Beretta disclose all of the claim limitations as applied to claim 22 above however neither Adobe, Microsoft nor Beretta explicitly disclose positioning a color group at an edge of the grid of a row or column however the office believes such a positioning of color grouping within the grid of the color palette to be a matter of design choice as the exact location of color groups within the color palette does not affect the overall operation of the invention.

In reference to claim 33 Adobe Systems Inc., Microsoft Corporation, and Beretta disclose all of the claim limitations as applied to claim 32 above in addition, Microsoft discloses

arranging achromatic colors in a row of a hexagonal shaped color grid areas from lightest to darkest (see screenshot (1) of Microsoft Word 2000 color palette).

In reference to claim 34, Adobe Systems Inc., Microsoft Corporation, and Beretta disclose all of the claim limitations as applied to claim 31 above however neither Adobe, Microsoft nor Beretta explicitly disclose one row or column to contain a contiguous subgroup of web-safe colors and a second contiguous subgroup of non web-safe colors. It would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange contiguous color subgroups associated with web-safe and non web-safe colors in one row or column in order to allow users to better select suitable colors by displaying related colors adjacent one another applying the, "...well-known principles of color perception theory that human perception of color is influenced by the effect of adjacent colors," (see column 1, lines 40-51 of Beretta).

In reference to claim 35, claim 35 is equivalent in scope to claim 22 and therefore is rejected under similar rationale. Note, Adobe Systems Inc. discloses user selection and manipulation of colors utilizing color tables in a graphics program named, "Adobe Photoshop 6.0" which is a well-known software program in the art (see page 330, 2<sup>nd</sup> paragraph). Also, note that it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the software of Adobe and Microsoft with the color selection techniques of Beretta on a computer readable medium in order to execute the instructions of the program at a later time.

In reference to claim 41, claim 41 is equivalent in scope to claim 22 and therefore is rejected under similar rationale. Note, it would have been obvious to one of ordinary skill in the

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art at the time the invention was made to implement the software of Adobe and Microsoft with the color selection techniques of Beretta on a computer system, including a storage device and a display device in order to execute the program, viewing various colors on a display, at a later time.

***Allowable Subject Matter***

3. Claims 28-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In reference to claim 28, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not disclose grouping web-safe color blends arranged to form a square wherein the colors are situated on one side of a diagonal of the square horizontally in order of decreasing saturation towards the diagonal and vertically in order of decreasing value towards the diagonal, and the colors in the other side of the diagonal are arranged horizontally decreasing in value towards the diagonal and vertically decreasing in saturation towards the diagonal.

In reference to claims 29 and 30, claims 29 and 30 are objected to because they claim dependency upon objected claim 28.

***References Cited***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
  - a. Kolar et al. (U.S. Patent 5,872,555)
    - Kolar et al. discloses a method and apparatus for editing custom colors from a Quick Color Selector.
  - b. Busch et al. (U.S. Patent 5,903,255)
    - Busch et al. discloses a method and system for selecting a color for display in a computer system from a color picker.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (703) 305-1391. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella, can be reached at (703)-308-6829.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

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**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the Technology Center 2600 Customer Service Office whose telephone  
number is (703) 306-0377.

aac

8/30/04



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